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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/315,403 05/20/99 HWANG

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EXAMINER

FISCHETTI, J

ART UNIT

PAPER NUMBER

3652

DATE MAILED:

06/16/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/315,403

Applicant(s)

HWANG ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/20/99 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☒ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 17) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____

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Election/Restrictions

Applicant's election without traverse of the article claims of group I claim 1-24 in Paper No. 4 is acknowledged. Claim: 25 is withdrawn from further consideration.

Drawings

The drawings are objected to because Fig. 6 appears to be crossed out by an "X". Is it applicant's desire to cancel this figure, if not, then a new Figure 6 without any such marking must be submitted in substitution for that originally filed. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, Applicant recites an upper surface but no corresponding lower one; is it not true that the rails and the central portion depend from the lower surface.

In claim 4, there is no antecedent basis for "said vertical support".

In claims 13,23 and 24, the use of the possessive by means of an apostrophe is not proper because it gives the element a characteristic of a person, which is not the case.

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In claim 23, line 6, the deck is what above at least a portion? In line 8, there is no first tray recited so how can there be a second one?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 15, 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Shuert.

Lower element 14 is read as the deck with a substantially rectangular shape; it has an upper surface defined by one double wall edge (see Fig. 4) which is U-shaped in cross-section; the deck has two downwardly projecting rails at corners 40 and a downwardly directed central support which extends below the deck and has an pocket for receiving a like central support from a like tray stacked on top of it.

Re claim 5: slots 62,62' which are disposed longitudinally of the edge length and connected to it are read as stiffeners.

Re claim 15, the lateral wall are the portions of the deck which is angled downwards, bridging rib is read as the outer double wall edge and the vertical support member is read as the crease between the angled wall portions.

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Re claim 3, the collection of the three rails is read as collectively extending a width of the deck, alternatively, a single one of the rails in Shuert is read as extending substantially along the width.

Re claim 22: the crease between the walls of the central pocket in Shuert are read as reinforcing ribs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuert in view of Herolzer.

Shuert discloses the invention substantially as claimed except for not disclosing a plurality of spaced apart linear support members which make up the deck. However, Herolzer does disclose such members as ribs 24. It would be obvious to modify the deck in Shuert with the rib array of Herolzer because the use of such structure makes the deck less expensive and lighter.

Re claim 9: see col. 5, lines 45-60, for disclosure of strengthening ribs with a web.

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Re claim 10: Whether the ribs make a radial pattern or are in a grid like arrangement is deemed to be a matter of design.

Re: claims 13 and 14: the stacking engagement means 16 in Herolzer is deemed to be the equivalent of a detent or bead to hold the stack the trays on top of each other.

Re claim 17 and 18: whether the central portion is circular or polygonal is deemed a matter of design choice.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti